

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

VICTOR SMITH,

Plaintiff,

vs

9:07-CV-1264

BRIAN FISCHER, Commissioner, NYS DOCS;
S. CONNELL, Superintendent, J. BADGER,
DSA, and K. ADAMIK, Captain, Each of Oneida
Correctional Facility; I. LOMBARDO, Acting
Superintendent, A. LABROIA, DSS, Each of
Orleans Correctional Facility; and MR. NAUGHTON,
Oneida Correctional Facility, DSS,

Defendants.

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APPEARANCES:

VICTOR D. SMITH

Plaintiff, pro se

Apt 3

21 Mill Street

Sodus, New York 14551

HON. ANDREW M. CUOMO

Attorney General of the

State of New York

Attorney for Defendants

Department of Law

The Capitol

Albany, New York 12224

ROGER W. KINSEY, ESQ.

SHOSHANAH V. BEWLAY, ESQ.

Asst. Attorney General

DAVID N. HURD

United States District Judge

**DECISION and ORDER**

Plaintiff, Victor Smith commenced this civil rights action in December 2007,  
pursuant to 42 U.S.C. § 1983. By Report-Recommendation dated November 24, 2009, the  
Honorable George H. Lowe, United States Magistrate Judge, recommended that defendants'

motion for to dismiss for failure to state a claim (Docket No. 38) be granted without leave to amend. No objections to the Report-Recommendation have been filed.

Based upon a careful review of the entire file and the recommendations of Magistrate Judge Lowe, the Report-Recommendation is accepted and adopted in all respects. See 28 U.S.C. 636(b)(1).

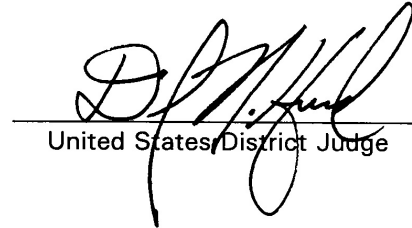
Accordingly, it is

ORDERED that

1. The defendants' motion to dismiss for failure to state a claim is GRANTED;
2. Plaintiffs' complaint is DISMISSED; and
4. The Clerk is directed to enter judgment accordingly and close the file.

IT IS SO ORDERED.

Dated: January 11, 2010  
Utica, New York.



United States District Judge